

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL NO. 736

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Drugs” and substitute “Controlled Dangerous Substances”; in line 7, strike “drug” and substitute “controlled dangerous substance; authorizing use of the primary cause standard under certain specified circumstances; requiring a certain certification from the Workers’ Compensation Commission for a certain workplace program; requiring revocation of the certification under certain circumstances; defining a certain term; providing that certain benefits shall not be denied under certain circumstances; providing for the abrogation of this Act”.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 12 through 25, inclusive, and substitute:

“(D) (1) IN THIS SUBSECTION, “PRIMARY CAUSE” MEANS THE CAUSE THAT IS FIRST IN IMPORTANCE.

(2) THE PROVISIONS OF THIS SUBSECTION SHALL APPLY ONLY TO AN EMPLOYER THAT:

(I) OFFERS AN ALCOHOL-FREE AND DRUG-FREE WORKPLACE PROGRAM:

1. BEFORE OCTOBER 1, 1997; OR

2. ON OR AFTER OCTOBER 1, 1997 THAT COMPLIES WITH THE GUIDELINES FOR AN ALCOHOL-FREE AND DRUG-FREE WORKPLACE PROGRAM ESTABLISHED BY THE MARYLAND CENTER FOR WORKPLACE SAFETY AND HEALTH;

(II) REQUIRES EACH COVERED EMPLOYEE TO SIGN AN

(Over)

AGREEMENT, AFTER COMPLETION OF A DRUG AND ALCOHOL EDUCATION PROGRAM DEVELOPED IN CONJUNCTION WITH THE MARYLAND CENTER FOR WORKPLACE SAFETY AND HEALTH, THAT REFLECTS THE EMPLOYEE'S UNDERSTANDING THAT THE EMPLOYEE WILL BE DENIED COMPENSATION OR BENEFITS AS PROVIDED UNDER PARAGRAPHS (3) AND (4) OF THIS SUBSECTION IF THE INTOXICATION OF THE EMPLOYEE OR THE EFFECT OF A CONTROLLED DANGEROUS SUBSTANCE ON THE EMPLOYEE IS FOUND TO BE THE PRIMARY CAUSE OF AN ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE; AND

(III) OBTAINS A CERTIFICATION FROM THE COMMISSION THAT THE PLACE OF EMPLOYMENT IS A DRUG-FREE WORKPLACE.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A COVERED EMPLOYEE OR DEPENDENT OF A COVERED EMPLOYEE IS NOT ENTITLED TO COMPENSATION OR BENEFITS UNDER THIS TITLE, EXCEPT FOR PAYMENT OF WAGES UNDER §§ 9-615 AND 9-621 OF THIS TITLE AND MEDICAL BENEFITS UNDER §§ 9-660 AND 9-661 OF THIS TITLE, AS A RESULT OF AN ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE, IF THE PRIMARY CAUSE OF THE ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE WAS THE EFFECT ON THE COVERED EMPLOYEE OF A CONTROLLED DANGEROUS SUBSTANCE DEFINED OR LISTED UNDER ARTICLE 27, §§ 277 OR 279 OF THE CODE.

(II) COMPENSATION OR BENEFITS SHALL NOT BE DENIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE CONTROLLED DANGEROUS SUBSTANCE WAS ADMINISTERED, TAKEN, OR USED IN ACCORDANCE WITH THE PRESCRIPTION OF A PHYSICIAN AND THE ADMINISTERING, TAKING, OR USE OF THE CONTROLLED DANGEROUS SUBSTANCE WAS NOT EXCESSIVE OR ABUSIVE.

(4) EXCEPT FOR PAYMENT OF WAGES UNDER §§9-615 AND 9-621 OF THIS TITLE AND MEDICAL BENEFITS UNDER §§ 9-660 AND 9-661 OF THIS TITLE, A COVERED EMPLOYEE OR DEPENDENT OF A COVERED EMPLOYEE IS NOT ENTITLED TO COMPENSATION OR BENEFITS UNDER THIS TITLE AS A RESULT OF AN

ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE, IF THE PRIMARY CAUSE OF THE ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE WAS THE INTOXICATION OF THE COVERED EMPLOYEE WHILE ON DUTY.

(5) A CERTIFICATION FROM THE COMMISSION OBTAINED UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION SHALL BE REVOKED AND MAY NOT BE REISSUED FOR A PERIOD OF 1 YEAR FROM THE REVOCATION IF THE PRIMARY CAUSE OF AN ACCIDENTAL PERSONAL INJURY, COMPENSABLE HERNIA, OR OCCUPATIONAL DISEASE OF AN EMPLOYEE WAS:

(I) THE INTOXICATION OF THE EMPLOYER WHILE ON DUTY;

(II) THE EFFECT ON THE EMPLOYER OF A DEPRESSANT, HALLUCINOGENIC, HYPNOTIC, NARCOTIC, OR STIMULANT DRUG THAT WAS NOT ADMINISTERED OR TAKEN IN ACCORDANCE WITH THE PRESCRIPTION OF A PHYSICIAN; OR

(III) THE EFFECT ON THE EMPLOYER OF ANOTHER DRUG THAT WAS NOT ADMINISTERED OR TAKEN IN ACCORDANCE WITH THE PRESCRIPTION OF A PHYSICIAN AND THAT MAKES THE EMPLOYER INCAPABLE OF SATISFACTORY JOB PERFORMANCE.”.

AMENDMENT NO. 3

On page 3, in line 4, after the period, insert “It shall remain effective for a period of 4 years and, at the end of September 30, 2001, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.”.